Civil Revision No. 18 of 2006

Hon'ble P.C. Pant, J.

Heard learned counsel for the parties.

This revision is directed against the order dated 30.01.2006, passed by the learned Additional District Judge/F.T.C., Haldwani in civil suit No. 28 of 1999, whereby application 121-C, for framing the additional issues, moved by the defendant, was rejected. Learned counsel for the revisionist, argued the there is specific plea taken in the written statement in Para-20, whereby it has been pleaded that even after assuming that the plaintiff is bhumidhar, he could not have let out the property in violation of Section 156, read with Section 157 of U.P. Zamindari Abolition and Land Reforms Act, 1950. It is further argued that no issue was framed on that point. The trial court, while rejecting the application on the point, has mentioned that the main dispute is whether the plaintiff is owner and landlord and whether he had let out the property to the defendant and has the tenancy of the defendant been terminated? It is further mentioned in the impugned order that the issues are already framed on those questions. The trail court has further held that there is no need to frame further issues, as suggested by the defendant. Since the plea, raises a legal question, which may materially affect the suit, as such, in the interest of justice, it would be proper that the parties are permitted to advance their submissions on the plea raised and trial court answers the same.

In the above circumstances, the revision is disposed of summarily with the observation that the trial court shall hear the parties on the plea raised on Para-20 of the written statement at the time of final hearing and deciding the issue relating to the relationship of the landlord and the tenant. Trial court may proceed with the suit, as expeditiously as possible.

Dt: 24.03.2006 **(P.C. Pant, J.)**

Sweta